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MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 1, 2015/2016

ULT 2612 – LAW OF TORTS I

(All sections / Groups)

15 OCTOBER 2015

Reading time: 9.00 – 9.15 am

(15 minutes)

Answering time: 9.15 am - 12.15 pm

(3 hours)

INSTRUCTIONS TO STUDENTS

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes **ONLY** in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.
2. This Question paper consists of 3 pages with 5 Questions only.
3. Attempt **FOUR** out of FIVE questions. All questions carry equal marks and the distribution of the marks for each question is given.
4. Please write all your answers in the Answer Booklet provided.

QUESTION 1

Discuss the application of *Bolam* test and *Rogers v Whitaker* test in determining the standard of care required for professionals from Malaysian point of view. Support your answer with decided cases.

(Total: 25 marks)

QUESTION 2

Normy has been the champion for MMU Badminton tournament for two years consecutively. She was scheduled to join the next Championship last week. Two days before the tournament, Nana, her rival planned to do something so that Normy will be unable to join the tournament.

That night, Nana and her friends, Noni and Nina, stopped Normy while she was driving on the road. Nana then drove Normy to a small hut in a remote area of a village. Normy screamed for help but Noni wrapped her mouth with a piece of handkerchief. Normy was then locked inside the hut.

The next day, Pak Ali, the owner of the land came to the hut to pick up his things. While he was opening the door, Normy was trying to break the window to escape. She was so shocked to see Pak Ali. Pak Ali did not allow her to leave until she pays him some compensation for trespassing on his land. Normy agreed but promised him to pay later. Before she left, she borrowed Pak Ali's axe and promised to return it the next week.

The next day, during the tournament, Nana was shocked to see Normy. While Nana was walking to the badminton court, Normy showed an axe to her and tried to hit her. Nana screamed and bent down. Suddenly, two committee members came and saved Nana.

Now, Pak Ali is complaining to you that Normy refused to pay compensation and return the axe to him. Normy is also trying to sue Nana and her friends for what they have done to her. In the meantime, Nana is also trying to take legal action against Normy.

Advise them on their possible legal action(s) against each other (if any).

(Total: 25 marks)

Continued...

QUESTION 3

If damage that materialises is of a different type of what is reasonably anticipated then it is regarded as too remote and the defendant will not be liable. Furthermore, sometimes a defendant's conduct results in a much more severe damage to the plaintiff than is reasonably anticipated.

Based on the above proposition, elaborate to what extent damage must be foreseeable in determining causation in law in the context of negligence.

(Total: 25 marks)

QUESTION 4

Chee wrote a letter in Mandarin to Phua calling him a conman, who failed to pay his legal fees and only issued bounced cheques. Phua's secretary, Mary, opened the letter but could not read it as she cannot read Mandarin. She left the letter on her table to attend to a client.

In the meantime, Yong read the letter and showed it to John. By the end of the day, the whole office was gossiping that Phua's company has no money to pay the employees. When Phua read Chee's letter, he realised that the letter was the cause of his office troubles. He asked Chee to apologise. Chee refused claiming that there was nothing defamatory in the letter and that he intended only Phua to read it.

In the meantime, one of the employees, Sally, wrote an email to Datuk Karim discouraging him from entering into a contract with Phua. She told Datuk Karim about everything that happened in the office. As a result, Datuk Karim refused to continue with their proposed joint venture agreement.

Advise Phua on his claim against Chee and Sally. Also, advise Sally on any possible defence(s) available to her in the event she is sued by Phua.

(Total: 25 marks)

Continued...

QUESTION 5

Muthu and Ong always play at a playground near Tasik Payung after school. They are Standard Five pupils in Sekolah Kebangsaan Paya Labuh, Selangor. One day, while they were playing at the playground, Muthu saw 2 children playing near an electric pole which was situated about 50 metres from the playground. They rushed there to join them. Once they reached there, the children had left the pole. They quickly climbed the pole. They felt happy as they could see beautiful sceneries from the air.

Suddenly, Muthu was electrocuted and fell down. He was badly injured. Ong, who was shocked by the incident, slipped from the pole, fell down and crashed onto a stone. Ong suffered serious back pain and broken legs.

Samy was riding a bicycle when he saw the boys getting injured. He stopped and tried to help them. However, he did not notice some rusty nails under the pole. He stepped on the nails and his legs were injured.

In the meantime, Ray, who was having a jog nearby heard the scream for help from the boys. He rushed to the scene. He passed through the playground to reach them. However, he fell into a hole, which was hidden under the grass and dried leaves. His leg was seriously injured.

Advise them.

(Total: 25 marks)

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